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10/580,412

02/22/2007

Stephan Wolff

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VENABLE LLP

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EXAMINER

HUYNH, LOUIS K

ART UNIT

PAPER NUMBER

3721

MAIL DATE

DELIVERY MODE

08/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/580,412 | Applicant(s) WOLFF ET AL. | |
| | Examiner Louis K. Huynh | Art Unit 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 February 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/24/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, (1) the “removal device preferably comprises a pusher drum or a transfer spider” recited in claim 16, (2) the “wrapping apparatus” recited in claim 17, and (3) the “adhesive applicator” recited in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claim 9 is objected to because of the following informalities: the phrase “at least one of the” on line 1 should be deleted because there is only one claim 3. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Claim 1, line 2: “for example” renders the claim indefinite because it is unclear as to whether or not the limitation following the phrase “for example” is a part of the claim.
- Claim 1, line 5: “one filter tow strip is guided in each tow guideway” renders the claim indefinite because it is unclear as to whether the phrase should be understood to mean that each of the two filter tow strips is separately guided in one of the at least two tow guideways, or to mean that only one filter tow strip is guided in both tow guideways. Note that the specification does not disclose and/or teach the latter case.

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- Claim 4 is indefinite because the specification does not disclose an embodiment in which the means for flattening, the means for drawing and/or the means for treating are arranged side-by-side.
- Claim 5 is indefinite because the phrase “and/or” renders the means for flattening and the means for drawing have the same roller pair, which is not describe in the specification.
- Claim 6, line 2: “roller pairs” in plural form lacks proper antecedent basis when "and" in the phrase "and/or" of claim 5 is considered.
- Claim 7, line 2: “the outer roller pair” lacks proper antecedent basis.
- Claim 7, line 3: “the inner roller pair” lacks proper antecedent basis.
- Claim 8, line 2: “the outer roller pair” lacks proper antecedent basis.
- Claim 8, line 3: “the inner roller pair” lacks proper antecedent basis.
- Claim 9, line 2: “the means for treating” lacks proper antecedent basis when “or” in the phrase “and/or” is considered and claim 3 does not have to have the means for treating.
- Claim 9, line 3: “preferably” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase “preferably” is a part of the claim.
- Claim 9, line 9: “the wall facing the tow guideway” lacks proper antecedent basis.
- Claim 14, line 3: “the filter two rods” lacks proper antecedent basis.
- Claim 15, line 4: “preferably” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase “preferably” is a part of the claim.

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- Claim 16, line 3: “preferably” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase “preferably” is a part of the claim.
- Claim 17, lines 5 & 6: “in particular” renders the claim indefinite because it is unclear whether the limitation(s) following the phrase “in particular” is a part of the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Greiner et al. (US 5,460,590).

- With respect to claims 1 & 2, Greiner discloses a device for processing filter tow material that meets all of applicant's claimed subject matter; in particular, the device of Greiner comprises: a delivery means (7) for supplying two filter tow strips (6.1 & 6.2), and two tow guideways each separately guiding one of the two filter tow strips (6.1 or 6.2) through a dual filter skein processing apparatus.
- With respect to claims 3-8, the processing apparatus comprises a means for means for drawing (12) having a roller pair (12.1 & 12.2) arranged side-by-side. Note that the claim language of “and/or” recited in claims 3-5 does not require the claimed device to include the means for flattening and/or the means for treating.

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- With respect to claims 9-12, the claim language of “and/or” recited in claim 3 does not require the claimed device to include the means for treating; therefore, the limitation of the means for treating will not be considered for patentability.
- With respect to claims 13-15, the device of Greiner further comprises a shaping device (3) including two conical funnels (19).
- With respect to claim 16, the device of Greiner further comprises a removal device (belt 24).
- With respect to claim 17, the device of Greiner further comprises a wrapping devices (26), a gluing devices (22).

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and is cited on form PTO-892 along with the applied prior art.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Louis K. Huynh whose telephone number is 571-272-4462. The examiner can normally be reached on M-F from 8:00AM to 3:00PM.

10. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

August 03, 2009

/Louis K. Huynh/
Primary Examiner
Art Unit 3721